

MINUTES  
**SENATE JUDICIARY & RULES COMMITTEE**

**DATE:** Wednesday, February 15, 2017

**TIME:** 1:30 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Lodge, Vice Chairman Lee, Senators Davis, Hagedorn, Anthon, Agenbroad, Foreman, Burgoyne, and Nye.

**ABSENT/EXCUSED:** None

**NOTE:** The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

**CONVENED:** **Chairman Lodge** called the meeting of the Senate Judiciary and Rules Committee to order at 1:24 p.m.

**Chairman Lodge** welcomed students from Caldwell High School and gave them a brief explanation of what they would be seeing today in the Committee.

**PRESENTATION:** **Page Farewell. Page Jack Wolthius** shared with the committee things he learned during the session, stating that his favorite tasks were doing the board on the Senate floor, and being in the "hot seat" which allowed him to move around and meet many of the people who work in the Senate. He also enjoyed meeting the people serving in the Executive Branch. Jack treated the Committee to a unique performance on the harmonica.

**RS 25000** **Relating to the use of judicial resources. Judge Barry Wood**, Senior District Judge, stated that **RS 25000** amends several sections of Title 1, Chapter 22 of the Idaho Code dealing with the location of Magistrate Judges. The proposal asks the Idaho Legislature if Idaho Code § 1-2205 requiring a Magistrate Judge to be resident in each of Idaho's 44 counties is still the desired policy of the State.

**Judge Wood** reviewed the history of the Idaho Code § 1-2205 and changes affecting the logistics of the State since this Code section was enacted. He pointed out the need for additional judicial resources in distinct parts of the State, identifying the reasons for this need as increasingly complex case loads, increased felony cases, increase in self-represented litigants, non-English language access needs, an increase in the number of problem-solving courts, and demographic shifts. **Judge Wood** indicated that Idaho's population is condensing primarily to six counties: Ada, Canyon, Kootenai, Bonneville, Bannock, and Twin Falls.

**Judge Wood** related that the Supreme Court received a request for one new magistrate judge in Bonneville County, as well as requests for additional Senior Judge days in two other judicial districts. The Court requests Legislative guidance on whether to seek additional new judicial resources, or to be provided the statutory opportunity to relocate resources when vacancies occur.

**Senator Davis** expressed concerns regarding how smaller counties will be affected. He stated he would support this proposal moving forward but felt there are issues that need to be addressed.

**MOTION:** **Senator Davis** moved to send **RS 25000** to print. **Senator Hagedorn** seconded the motion. The motion carried by **voice vote** with Senator Nye voting Nay.

**RS 25004**

**Relating to failure to return a rented vehicle.** **Senator Burgoyne** explained that this bill could be seen as a clarification or a substantive change to the statute. The change is on page 3 of Idaho Code § 18-2403 and would add "or other equipment" to the current law. He reported that Sam Castillo, Vice President of Tate's Rents, informed legislators that failure to return rented equipment is increasing. Often individuals rent equipment with no intention of returning it. Rental industry personnel report this situation to law enforcement who reply that it is a civil matter.

**Senator Burgoyne** acknowledged that one concern has been expressed regarding instances when timely return is not possible. He pointed out that page 3, line 6, specifies that the violation occurs if the failure to return is willful and intentional.

**MOTION:**

**Senator Davis** moved to send **RS 25004** to print. **Senator Lee** seconded the motion. the motion carried by **voice vote**.

**Senator Hagedorn** noted that a correction will need to be made to the SOP regarding co-sponsors.

**RS 25097**

**Relating to firearms restoration.** **Chairman Lodge** stated that at the request of Senator Burgoyne, **RS 25097** will be held awaiting more information.

**S 1023**

**Relating to funeral processions.** **Michael Henderson**, Counsel of the Supreme Court, commented that this is a defect bill regarding defects and omissions in the law. This change relates to the penalty section, Idaho Code § 49-2706, which states that a violation of the provisions of the chapter is a misdemeanor, punishable by a fine not to exceed \$100. He advised that if the only penalty for a violation is a fine, the violation should be an infraction. These types of violations would normally be infractions. If the violation is intentional and knowing, it would be a misdemeanor.

**Mr. Henderson** stated the amendment to this section would categorize the violations as "infractions" with a penalty of \$33.50 in fine and \$56.50 in court costs for a total of \$90. If the violation is intentional and knowing, it will be a misdemeanor which would carry a penalty of up to 6 months in jail and up to a \$1,000 fine.

**Mr. Henderson** observed that this situation does not happen often. He disclosed that the fiscal note indicates that the cost would be minimal. However, the Idaho Transportation Department (ITD) expressed concern that they have to make a change each time an infraction occurs because of their point system leading to license suspension. According to the IDT, the adjustment they would have to make carries a cost of \$4,000 for each occurrence.

**Senator Foreman** asked if a violation of any of the items listed in Idaho Code § 49-2703 would result in a misdemeanor. **Mr. Henderson** replied that as it now stands those are misdemeanors; this amendment would change them to infractions, unless it is intentional and knowing. In that case the violation would be a misdemeanor.

**MOTION:**

**Senator Lee** moved to send **S 1023** to the floor with a do pass recommendation. **Senator Davis** seconded the motion. The motion carried by **voice vote**.

**Senator Davis** pointed out that the fiscal note needs to be revised before the bill is sent to the floor.

- S 1024**                    **Relating to the child protective act. Michael Henderson**, Counsel of the Supreme Court, observed that this bill is a correction to S 1328 (2016) as amended. The definition of protective order in Idaho Code § 16-1602(34) contains an outdated statutory reference and fails to note all of the circumstances in which a protective order may be issued. This bill would correct those errors.
- MOTION:**                **Senator Burgoyne** moved to send **S 1024** to the floor with a do pass recommendation. **Senator Lee** seconded the motion. The motion carried by voice vote.
- S 1025**                    **Relating to administrative judges. Michael Henderson**, Counsel of the Supreme Court, informed the Committee that this is another technical update of the statute setting forth powers and duties of Administrative District Judges. This change will remove duties no longer being addressed by Administrative District Judges.
- MOTION:**                **Senator Hagedorn** moved to send **S 1025** to the floor with a do pass recommendation. **Senator Anthon** seconded the motion. Passed by **voice vote**.
- S 1026**                    **Relating to criminal procedure regarding who may apply for relief. Michael Henderson**, Counsel of the Supreme Court, explained that this bill is for clarification. Idaho Code § 19-2604 permits some individuals to have their convictions, pleas, or findings of guilt set aside if certain conditions are met. In the case of a misdemeanor, the statute is unclear whether a defendant who has had part of the sentence suspended would be eligible for relief. This bill would clarify that when any portion of the sentence has been suspended, the defendant could ask for relief if the required conditions are met.
- MOTION:**                **Senator Foreman** moved to send **S 1026** to the floor with a do pass recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.
- PRESENTATION:**      **Chairman Lodge**, called Jack Wolthius back to the podium. Speaking on behalf of the Committee, she wished Jack well and presented him with some mementos of his work in the Senate. **Senator Hagedorn** mentioned that when he received Jack's resumé he was very impressed. He asked Jack what his major will be. **Jack** responded that he likes government and politics. He is planning on taking both pre-law and pre-med classes and see where that takes him. He said that basically he just wants to help others.
- ADJOURNED:**            There being no further business at this time, **Chairman Lodge** adjourned the meeting at 2:15 p.m.

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Chairman Lodge  
Chair

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Carol Cornwall  
Secretary